

CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY

Public Records Act Policy

BACKGROUND

The California Public Records Act (PRA) is similar to the federal Freedom of Information Act. With certain exceptions, the PRA considers all records maintained by the California Health and Human Services (HHS) Agency (the Agency) to be public records, but also recognizes the right to individual privacy. The PRA establishes 27 specific exemptions and one general exemption from mandatory disclosure. Once the Agency receives a request for documents under the PRA, it has ten days in which to respond to the request. If denied, the Agency must justify its decision. Fees for copies are ten cents (\$0.10) per copy.

INTENT

Access to information concerning the conduct of the people's business by the State of California is a fundamental right of every person. Disclosure of personal information, however, may constitute an invasion of privacy. Agency policy and procedures consistent with statutory and other requirements for privacy, confidentiality, and security of certain data are outlined below.

AUTHORITY

The primary provisions affecting the classification and dissemination of information under the control of state agencies can be found in the State Constitution, in statute, and in administrative policy.

- **State Constitution:** Article 1, Section 1, defines pursuing and obtaining privacy as an inalienable right.
- **California Information Practices Act (IPA) of 1977** (Civil Code, section 1798, et seq.) places specific requirements on state agencies in the collection, use, maintenance, and dissemination of information relating to individuals.
- **California Public Records Act (PRA)** (Government Code section 6250, et seq.) provides, among other things, access and inspection of public records. It also exempts certain records from public access.
- **State Records Management Act** (Government Code section 14740, et seq.) provides for management methods in the application, creation, utilization, maintenance, retention, preservation, and disposal of state records, including determination of the records essential to the continuation of government in the event of a major disaster.
- **Federal Privacy Act of 1974** safeguards individual privacy by regulating the collection, maintenance, use, and dissemination of personal information by federal agencies. The California IPA is modeled after this Act.
- **Federal Freedom of Information Act (FOIA)** provides policy and procedures for obtaining copies of, or inspecting, federal records. The PRA is modeled after this Act.

California Health and Human Services Agency

- Other Provisions: There are other state and federal laws that specifically prohibit the disclosure of information gathered on individuals. They include Federal Social Security Act, State Welfare and Institutions Code, Civil Code, Health and Safety Code, Insurance Code, Family Code, Penal Code, Evidence Code, and related rules and regulations.

DEFINITIONS

Confidential Information:

Information maintained by the Agency that is exempt from disclosure under the provisions of the PRA or other applicable state or federal laws.

Personal Information:

Any information that is maintained by the Agency that identifies or describes an individual, including but not limited to, their name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history.

Privacy:

In this context, the right of individuals and organizations to control the collection, storage, and dissemination of information about themselves.

Public Information:

Any information prepared, owned, used, or retained by the Agency and not specifically exempt from disclosure by the PRA or other applicable state or federal laws. Public information is available for inspection during normal business hours.

Examples of Exempt Information:

While not all inclusive, the following are examples of information exempt from disclosure as detailed in Government Code section 6243 et. seq.: personnel, medical, or similar files; complaints to law enforcement or licensing agencies where there is a substantial prospect of enforcement.

POLICY

It is the Agency policy:

1. To consider all information received about an individual as private unless such information is specifically identified as a public record;
2. To recognize that the right of privacy is a fundamental right, protected by both the California Constitution and the United States Constitution and that all individuals have a reasonable expectation of privacy. Every Agency employee must recognize this right and make a conscious effort to ensure the maintenance of privacy;
3. That the Agency shall not collect information about any individual that is not relevant and necessary to its statutory purpose; and

California Health and Human Services Agency

4. To maintain record and equipment security measures that preserve privacy and prevent the loss of confidential information through accident, sabotage, or natural disaster.

LIMITATIONS

Records requested by subpoena: Records requested by subpoena require handling in accordance with the California Evidence Code (CEC). Response times and handling procedures are detailed in CEC section 1560, et seq. CEC section 1563(b)(1) contains specific charges applicable to duplicating documents.

AGENCY RESPONSIBILITIES

All Agency employees must understand the confidential nature of private records and the procedures for maintaining privacy, confidentiality, and security. Agency employees who receive requests for public records must receive training about the Agency's information security policies and sign acknowledgments of their security responsibility required by the State Administrative Manual section 4842.2. Agency employees are responsible for the ethical use of HHS departments and/or Agency information and for following all applicable regulations and statutes regarding privacy and confidentiality.

The Agency Chief Counsel will serve as the Agency PRA Coordinator who will be responsible for the training of Agency employees. Additionally, the Agency Chief Counsel will review and approve all proposed responses to PRA requests, as well as make the determination of any denials of PRA requests, other than those requests received by the Office of Systems Integration (OSI) and the Office of HIPAA Implementation (CalOHI). OSI and CalOHI, through their legal counsel, will review and approve all proposed responses to PRA requests that are received by them, and will consult with Agency Chief Counsel on all determinations of any denials of PRA requests.

The Associate Secretary, Office of External Affairs, will coordinate with the Agency Chief Counsel on all proposed responses to PRA requests.

The Agency Administration Unit will ensure that the PRA policy is posted for viewing in employee work areas.

PROCEDURES

Timeframes: Within ten (10) working days of receipt, Agency must respond to a PRA request. If a delay or denial is anticipated, the requester must be notified of the reason(s) within ten (10) working days of receipt. If a request for a record, not exempt from disclosure, will take an unusual amount of time to process, the requester must be notified of the expected delay within ten (10) working days of receipt of the request and given an estimated completion date.

Viewing records: Agency staff will allow use of one of the conference rooms to view and inspect the records. The Agency Chief Counsel will screen and edit files to ensure records exempt from disclosure or

California Health and Human Services Agency

containing confidential information are not made available. Agency will escort visitors from the reception area to the viewing area. Agency staff will monitor the visitor during the records viewing.

Copying records: Agency staff will allow the use the copier in the receptionist area for copying records requested under the PRA.

Fees: Agency staff will charge \$.10 per page for each copy. Fees are to be paid by an imprinted check or money order made payable to the California Health and Human Services Agency. First class mailing costs for return mail may not be charged to the requester. Requests for priority mail or special handling will be charged at actual costs incurred.

PROTECTION OF CONFIDENTIAL INFORMATION

The Agency must protect confidential information. Security procedures should strike a balance between the risk of a breach of security and the Agency's need to work with the confidential information. During normal work hours, confidential information may not be left unattended. If the area will be unattended, even for only a few minutes, confidential information must be locked up. During nonworking hours confidential information must be kept in a locked desk or cabinet.

POSTING

This Agency policy will be posted in a conspicuous location for general viewing.